

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BARBARO ROSAS and GUADALUPE
11 TAPIA, as individuals and on behalf of all
12 other similarly situated persons

CASE NO. C18-0112-JCC

13 Plaintiffs,
14 v.
15 SARBANAND FARMS, LLC, *et al.*,
16 Defendants.

ORDER

17 This matter comes before the Court on Plaintiffs' motion for reconsideration or, in the
18 alternative, to certify a question to the Washington Supreme Court pursuant to Wash. Rev. Code
19 § 2.60.020 (Dkt. No. 135). Having thoroughly considered the parties' briefing and the relevant
20 record, the Court finds oral argument unnecessary and hereby DENIES the motion for the
reasons explained herein.

21 **I. BACKGROUND**

22 On February 15, 2019, Plaintiffs moved for partial summary judgment on their claims
23 arising under the Washington Farm Labor Contractors Act ("FLCA"), Wash. Rev. Code
24 § 19.30.010 *et seq.* (Dkt. No. 84.) On June 13, 2019, the Court granted in part and denied in part
25 Plaintiffs' motion. (Dkt. No. 134.) The Court granted Plaintiffs' motion as to class members who
26 were "sent directly to Washington to work for Defendant Sarbanand Farms pursuant to a contract

1 between Defendant Sarbanand Farms and CSI, and for whom CSI received a fee.” (*Id.* at 14.)
2 The Court denied Plaintiffs’ motion and dismissed their claims “as to CSI and Growers’ liability
3 under the FFLCA for class members who were initially sent to California pursuant to a contract
4 between CSI and Defendant Munger Bros. or Crowne Cold Storage and later transferred by
5 Growers to Washington, and for whose transfer CSI did not receive an additional fee.” (*Id.*)

6 Plaintiffs move for reconsideration of the Court’s dismissal of their FFLCA claims as to
7 class members initially sent to California before being transferred to Washington. (Dkt. No. 135
8 at 2, 4–6.) In the alternative, Plaintiffs request that the Court certify a question to the Washington
9 Supreme Court pursuant to Wash. Rev. Code § 2.60.020. (*Id.* at 6–7.)¹

10 **II. DISCUSSION**

11 **A. Motion to Reconsider**

12 Motions for reconsideration are generally disfavored. W.D. Wash. Local Civ. R. 7(h)(1).
13 Reconsideration is only appropriate where there is “manifest error in the prior ruling or a
14 showing of new facts or legal authority which could not have been brought to [the Court’s]
15 attention earlier with reasonable diligence.” *Id.* “A motion for reconsideration should not be used
16 to ask the court to rethink what the court had already thought through—rightly or wrongly.”

17 *Premier Harvest LLC v. AXIS Surplus Insurance Co.*, Case No. C17-0784-JCC, Dkt. No. 61 at 1
18 (W.D. Wash. 2017) (quoting *U.S. v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D. Ariz. 1998)).

19 Plaintiffs assert that the Court committed manifest error when it dismissed their FFLCA
20 claims as to class members who were initially sent to California and for whose later transfer CSI
21 did not receive an additional fee. (Dkt. No. 135 at 2, 4–6.) Plaintiffs argue that the Court did not
22 construe evidence in Plaintiffs’ favor as required by Federal Rule of Civil Procedure 56 or that a
23 genuine factual dispute exists that precludes dismissal of Plaintiffs’ claims. (*See id.*) Plaintiffs’

24 _____
25 ¹ Plaintiffs ask the Court to certify the following question: “whether a farm labor
26 contractor subject to FFLCA includes an entity that receives a flat fee to simultaneously recruit
and supply agricultural workers to work in one state before beginning work in Washington
state?” (Dkt. No. 135 at 2, 7.)

1 argument asks the Court to revisit the evidence it considered in ruling on their motion for partial
2 summary judgment but arrive at a different conclusion. Plaintiffs' argument is insufficient to
3 warrant reconsideration of the Court's decision, and Plaintiffs have not otherwise identified a
4 manifest error in the Court's ruling meriting reconsideration. *See Premier Harvest*, Case No.
5 C17-0784-JCC, Dkt. No. 61 at 1; W.D. Wash. Local Civ. R. 7(h)(1). Therefore, Plaintiffs'
6 motion for reconsideration is DENIED.

7 **B. Motion to Certify Question**

8 Federal courts in Washington may certify questions to the Washington Supreme Court:

9 When in the opinion of [the] court before whom a proceeding is pending, it is
10 necessary to ascertain the local law of this state in order to dispose of such
proceeding and the local law has not been clearly determined, such federal court
may certify to the supreme court for answer the question of local law involved and
the supreme court shall render its opinion in answer thereto.

12 Wash. Rev. Code § 2.60.020. "There is a presumption against certifying a question to a state
13 supreme court after the federal district court has issued a decision. A party should not be allowed
14 'a second chance at victory' through certification by the appeals court after an adverse district
15 court ruling." *Thompson v. Paul*, 547 F.3d 1055, 1065 (9th Cir. 2008) (quoting *In re Complaint*
16 of *McLinn*, 744 F.2d 677, 681 (9th Cir. 1984)). Certification is within the Court's discretion. *See*
17 *Micomonaco v. State of Wash.*, 45 F.3d 316, 322 (9th Cir. 1995).

18 Plaintiffs assert that the Court's dismissal of Plaintiffs' claims "involves an unsettled
19 question of Washington law that is determinative of many of the FFLCA liability matters before
20 this Court" and "is a matter of significant public policy," and thus certification of a question to
21 the Washington Supreme Court is merited. (Dkt. No. 135 at 6–7.) But Plaintiffs' argument
22 contradicts their election to litigate the issue via their motion for partial summary judgment
23 rather than moving to certify the question when it first arose. Plaintiffs have only brought their
24 motion to certify the question after receiving an adverse decision from the Court and have not
25 overcome the presumption against such *post hoc* requests for certification. *See Thompson*, 547
26 F.3d at 1065. Therefore, Plaintiffs' motion to certify a question to the Washington Supreme

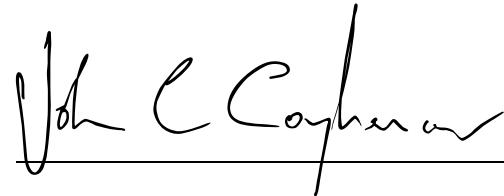
1 Court is DENIED.

2 **III. CONCLUSION**

3 For the foregoing reasons, Plaintiffs' motion for reconsideration or, in the alternative, to
4 certify a question to the Washington Supreme Court (Dkt. No. 135) is DENIED.

5 DATED this 1st day of August 2019.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE